

**DEPARTMENT OF JUSTICE PROPOSAL
RESPONDING TO THE EXECUTIVE MEMORANDUM ON FAIRNESS IN LAW ENFORCEMENT**

EXECUTIVE SUMMARY

On June 9, 1999, the President issued an executive memorandum to the Secretary of the Interior, the Attorney General, and the Secretary of the Treasury directing them "to design and implement a system to collect and report statistics relating to race, ethnicity, and gender for law enforcement activities in each department."

Four tasks were required of the Departments:

- (1) within 120 days of the memorandum, develop a proposal for a system of a data collection and implementation plan;
- (2) within 120 days of the memorandum, prepare a report describing training programs, policies, and practices regarding the use of race, ethnicity, and gender in law enforcement practices and recommendations for improvement;
- (3) to the extent practicable, data sufficiently detailed to permit further analysis will be collected on the activities of each Department's law enforcement agencies;
- (4) after data have been collected for one year, prepare a report summarizing the information collected during the first year including (a) an evaluation of the field test, (b) an implementation plan for expanded data collection, and (c) recommendations for improving the fair administration of Federal law enforcement activities.

The Departments of Interior and Treasury were directed to coordinate the preparation of their proposals with the Attorney General. This report is the Justice Department's response to task (1) and includes summaries of the other Departments' proposals.

DATA COLLECTION

The Department of Justice proposal employs a two-part process. Part 1 focuses on nonsuspect-specific encounters by the Drug Enforcement Administration and the Immigration and Naturalization Service. Part 2 focuses on persons arrested by all DOJ law enforcement agencies and persons prosecuted by U.S. attorneys.

Data describing race and ethnicity will be collected in accordance with the revised OMB Standards for the Classification of Federal Data on Race and Ethnicity.

Nonsuspect-specific public encounters

Within the Department of Justice, the Drug Enforcement Administration and the Immigration and Naturalization Service were determined to be the agencies that routinely engage in nonsuspect specific public encounters on a regular basis. The Federal Bureau of Investigations, U.S. Marshals Service, and the Bureau of Prisons do not engage in nonsuspect specific public encounters.

As part of the field test required by the Executive Memorandum, a minimum of 11 data elements will be collected on each nonsuspect-specific public encounter made by DEA special agents at up to five airports (Newark; Chicago O'Hare; George Bush Houston; Miami; and Detroit); two bus stations (Charleston, SC and Sacramento, CA), and two train stations (Cleveland, OH and Albuquerque, NM); by INS inspectors at three international airports (John F. Kennedy, George Bush Houston, and Seattle/Tacoma) and one land

border crossing (Del Rio, TX); and by INS Border Patrol agents operating out of three stations along the southwest border with Mexico (San Diego, CA; Yuma AZ; and El Paso, TX).

The data elements to be collected are: (1) *date of the encounter*; (2) *time of the contact (start)*; (3) *gender*; (4) *race and ethnicity*; (5) *national origin*; (6) *location of contact*; (7) *suspected criminal activity*; (8) *reason(s) for contact*; (9) *external sources of information on the person contacted*; (10) *law enforcement action taken*; (11) *time of contact (end)*.

In addition, the Bureau of Justice Statistics, in cooperation with the National Institute of Justice, will pursue a variety of research and monitoring techniques to estimate the demographic characteristics of persons using the transportation facilities and land-border crossings involved in the field test.

Arrests by Federal law enforcement agencies

The Bureau of Justice Statistics plans to incorporate Federal arrest data into its ongoing Federal Justice Statistics Program. Through its Federal Justice Statistics Program, the Bureau of Justice Statistics currently compiles Federal criminal case processing data from the U.S. Marshals Service, the Executive Office for U.S. Attorneys, the Administrative Office of the U.S. Courts, the U.S. Sentencing Commission, and the Bureau of Prisons. By incorporating arrest data into an existing program, BJS can ensure that these data are regularly and systematically analyzed and reported. The analysis of arrest and prosecution data will assist in identifying racial or ethnic disparities in Federal law enforcement agencies' activities related to arrests, prosecutorial decisions, and issues relating to the sentencing of Federal offenders under the provenance of the U.S. Attorneys, *e.g.*, motions for downward departures for substantial assistance to the government.

OVERVIEW OF PROPOSALS BY THE DEPARTMENTS OF THE INTERIOR AND THE TREASURY

The Departments of the Interior and the Treasury submitted their proposals to the President under separate cover. As part of their proposals, both Departments agreed to collect data in the manner prescribed by the Department of Justice.

The Interior data collection system will be field tested by the National Park Service at seven National Parks (Lake Mead, Yosemite, Grand Canyon, Glen Canyon, National Expansion Memorial, Indiana Dunes Lake Shore, Valley Forge Historical Park, and the Delaware Water Gap) and on three Federally-maintained memorial highways (Blue Ridge Parkway, Natchez Trace Parkway and the Baltimore Washington Parkway).

The Treasury data collection system will be field tested by the U.S. Customs Service at five international airports (John F. Kennedy, Newark, Chicago O'Hare, Miami, and Los Angeles) and by the Uniformed Division of the Secret Service in Washington, DC.